

CASE 11-C-327
GEORGE NICHOLS

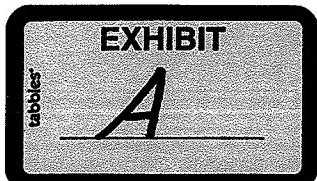
KANAWHA

vs. RAILSERVE, INC.,

PAGE 1

LINE	DATE	ACTION
1	02/25/11	# ISSUED SUM & 4 CPYS; F FEE; RCPT 469888; \$145.00; CASE INFO
2		# SHEET; COMPLAINT
3	03/09/11	SM LET FR SS DTD 3/4/11; SUM W/RET (3/4/11 SS) AS TO DUPONT
4		SM FILAMENTS-AMERICAS LLC
5	03/09/11	SM LET FR SS DTD 3/4/11; SUM W/RET (3/4/11 SS) AS TO RAILSERVE
6	03/14/11	# E-CERT FR SS AS TO DUPONT FILAMENTS-AMERICAS, LLC DTD 3/8/11
7	03/14/11	# SIGNED BY KELLI RUCKER
8	03/14/11	# E-CERT FR SS AS TO RAILSERVE INC., DTD 3/10/11 SIGNED BY
9		R. FLOWERS

A TRUE COPY
TESTED *[Signature]*
CIRCUIT COURT KANAWHA COUNTY, WVA
By *[Signature]*
3/25/11





**Service of Process
Transmittal**

03/09/2011

CT Log Number 518158520

TO: Silvio DeCarli
E. I. du Pont de Nemours and Company
Du Pont Building, 1007 Market Street, D 7060
Wilmington, DE 19898-

RE: **Process Served in West Virginia**

FOR: DuPont Filaments-Americas, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: George Nichols, Pltf. vs. Railserve, Inc. and DuPont Filaments-Americas, LLC, Dfts.

DOCUMENT(S) SERVED: Letter, Summons, Complaint

COURT/AGENCY: Kanawha County Circuit Court, WV
Case # 11-C-327

NATURE OF ACTION: Employee Litigation - Personal Injury - Plaintiff was injured due to releasing a toxic vapor

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 03/09/2011 postmarked on 03/07/2011

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: Within 30 days after service of summons, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Greg A. Hewitt
Hewitt & Salvatore, PLLC
204 North Court Street
Fayetteville, WV 25840
304-252-2207

ACTION ITEMS: CT has retained the current log, Retain Date: 03/09/2011, Expected Purge Date:
03/14/2011
Image SOP
Email Notification, Mary S Tuke MARY.S.TUKE@USA.DUPONT.COM
Email Notification, Joan A Byrne joan.a.byrne@usa.dupont.com
Email Notification, Silvio DeCarli Silvio.J.DeCarli@usa.dupont.com
Email Notification, Barbara Stone barbara.l.stone@usa.dupont.com

SIGNED: C T Corporation System
PER: Amy McLaren
ADDRESS: 5400 D Big Tyler Road
Charleston, WV 25313
TELEPHONE: 800-592-9023

Page 1 of 1 / KM

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E
Charleston, WV 25305



9171 9237 9000 1000 4061 04



Natalie E. Tennant
Secretary of State
Telephone: 304-558-6000
Toll Free: 866-SOS-VOTE
www.wvsos.com

ControlNumber: 309926
Defendant: DuPont Filaments-Americas, LLC
County: 20
Civil Action: 3/4/2011
11-C-327

DuPont Filaments-Americas, LLC
C. T. Corporation System
5400 D Big Tyler Road
Charleston WV 25313

I am enclosing:

- | | | |
|--|---|---|
| <input type="checkbox"/> summons | <input type="checkbox"/> affidavit | <input checked="" type="checkbox"/> summons and complaint |
| <input type="checkbox"/> notice | <input type="checkbox"/> answer | <input type="checkbox"/> summons and verified complaint |
| <input type="checkbox"/> order | <input type="checkbox"/> cross-claim | <input type="checkbox"/> summons and amended complaint |
| <input type="checkbox"/> petition | <input type="checkbox"/> counterclaim | <input type="checkbox"/> 3rd party summons and complaint |
| <input type="checkbox"/> motion | <input type="checkbox"/> request | <input type="checkbox"/> notice of materialmans lien |
| <input type="checkbox"/> suggestions | <input type="checkbox"/> notice to redeem | <input type="checkbox"/> notice of mechanic's lien |
| <input type="checkbox"/> Interrogatories | <input type="checkbox"/> request for production | <input type="checkbox"/> notice of uim claim |
| <input type="checkbox"/> discovery | <input type="checkbox"/> request for admissions | <input type="checkbox"/> subpoena duces tecum |
| <input type="checkbox"/> suggestee execution | <input type="checkbox"/> re-issue of uim claim | <input type="checkbox"/> Other |
| <input type="checkbox"/> subpoena | <input type="checkbox"/> writ | |
| <input type="checkbox"/> stipulation | <input type="checkbox"/> writ of mandamus | |

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Natalie E. Tennant
Secretary of State

SUMMONS

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

GEORGE NICHOLS,

PLAINTIFF,

v.

CIVIL ACTION NO. 11-C-327

RAILSERVE, INC. and
DUPONT FILAMENTS-AMERICAS, LLC,

DEFENDANTS.

To the above-named Defendant:

DuPont Filaments-Americas, LLC
CT Corporation System
5400 D Big Tyler Road
Charleston, West Virginia 25313

IN THE NAME OF THE STATE OF WEST VIRGINIA: You are hereby summoned and required to serve upon **Greg A. Hewitt**, plaintiff's attorney, whose address is 204 North Court Street, Fayetteville, West Virginia 25840, an answer, including any related counterclaim or defense you may have, to the complaint filed against you in the above-styled civil action, a true copy of which is hereby delivered to you. You are required to serve your written answer with the Clerk of this Court, and with a copy of said answer served upon plaintiff's attorney within **THIRTY (30)** days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: Feb 25 2011

Cathy S. Yates
Clerk of Court
Maryanne Hamm
Deputy Clerk

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

GEORGE NICHOLS,

PLAINTIFF,

v.

CIVIL ACTION NO. 11-SC-291

RAILSERVE, INC. and
DUPONT FILAMENTS-AMERICAS, LLC,

DEFENDANTS.

COMPLAINT

1. The Plaintiff, George Nichols, at all times relevant herein was a resident of West Virginia.
2. The Defendants, Railserve, Inc.(hereinafter "Railserve") and Dupont Filaments-Americas, LLC (hereinafter "Dupont") are corporations doing business in Kanawha County, West Virginia at all times relevant herein.
3. On October 30, 2009, Plaintiff, George Nichols was an employee of Defendant Railserve working at the Kanawha County location of Defendant Dupont.
4. On the aforementioned date, George Nichols was injured as an employee of Defendant Dupont released a toxic vapor.
5. Mr. Nichols suffered serious and permanent injuries as a result.
6. Upon information and belief, Plaintiff avers that the trier of fact will determine:
 - A. That a specific unsafe working condition exists within the work place which presented a high degree of risk and strong probability of serious injury or death;
 - B. That the employer, prior to the injury, had a subjective realization of the existence of the specific unsafe working condition and of the high degree of risks and the strong probability of serious injury or death presented by the specific unsafe working condition;
 - C. That the specific unsafe working condition was a violation of State or Federal safety statute, rule, regulation, whether sited or not, or of a commonly excepted or well known safety standard within the industry or business of the

FILED
KANAWHA CIRCUIT COURT
FEB 11 2011
10 AM 4:39
CLERK'S OFFICE

employer, as demonstrated by confident evidence by written standards or guidelines which reflect the consensus or safety standard in the industry or business, which statute, rule, regulation, or standard was specifically applicable to the particular work and working condition involved, as contrasted with a statute, rule, regulation, or standard generally requiring safe work places, equipment or working conditions;

- D. Not notwithstanding the existence of the facts set forth in paragraph A-C, inclusive, of this paragraph, the Defendants nevertheless intentionally thereafter exposed an employee to the specific unsafe working conditions;
- E. The employee exposed suffered serious compensable injury or compensable death as defined in section one, article 4, chapter 23 whether a claim for benefits under this chapter as filed or not as a direct and proximate result of the specific unsafe working condition.

7. As to the date of the filing of the petition, Plaintiff George Nichols has incurred medical expenses in an amount not yet determined and expects to incur additional bills in the future.

8. At the time of his injury, the Plaintiff was working at a location owned by Defendant Dupont and was supervised by Dupont employees.

9. Defendant Dupont failed to exercise its duty of care owed to the Plaintiff.
10. Defendant Dupont negligently supervised and directed the work of the Plaintiff.
11. An employee of Defendant Dupont negligently released a toxic vapor which harmed the Plaintiff.

12. In the alternative, the acts of Defendant Dupont were deliberate and intentional.
13. As a direct and proximate result of the acts of the Defendants, the Plaintiff George Nichols has sustained permanent injuries which will impair his ability to work and earn income in the future and has caused a loss of income from the date of the incident alleged herein.

14. Upon information and belief, the Plaintiff, George Nichols, will require reasonable medical treatment for a foreseeable period in the future.

WHEREFORE, Plaintiff prays for judgment against the Defendants in an amount as

necessary to compensate the Plaintiff for the injuries detailed herein for compensatory and punitive damages.

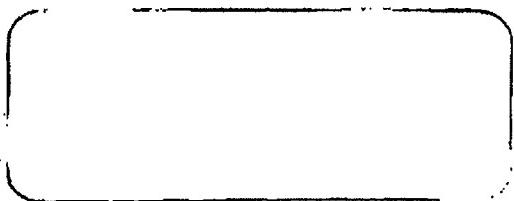
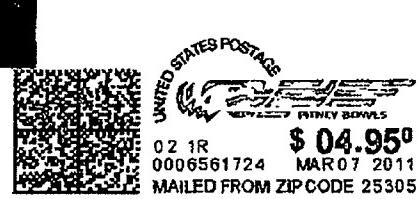
Plaintiff demands a Trial by Jury.

**George Nichols,
By Counsel**

HEWITT & SALVATORE, PLLC

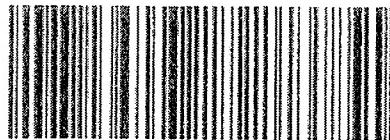
**Greg A. Hewitt, WV Bar No. 7457
204 North Court Street
Fayetteville, West Virginia 25840
(304) 574-0272**

CERTIFIED MAIL



6

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E
Charleston, WV 25305



9171 9237 9000 1000 4061 11



Natalie E. Tennant
Secretary of State
Telephone: 304-558-6000
Toll Free: 866-SOS-VOTE
www.wvsos.com

ControlNumber: 309928
Defendant: Railserve, Inc.

County: 20
Civil Action: 3/4/2011
11-C-327

Railserve, Inc.
Dennis Nelson
1691 Phoenix Blvd, Ste. 250
Atlanta GA 30349

I am enclosing:

- | | | |
|--|---|---|
| <input type="checkbox"/> summons | <input type="checkbox"/> affidavit | <input checked="" type="checkbox"/> summons and complaint |
| <input type="checkbox"/> notice | <input type="checkbox"/> answer | <input type="checkbox"/> summons and verified complaint |
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| <input type="checkbox"/> petition | <input type="checkbox"/> counterclaim | <input type="checkbox"/> 3rd party summons and complaint |
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| <input type="checkbox"/> interrogatories | <input type="checkbox"/> request for production | <input type="checkbox"/> notice of uim claim |
| <input type="checkbox"/> discovery | <input type="checkbox"/> request for admissions | <input type="checkbox"/> subpoena duces tecum |
| <input type="checkbox"/> suggestee execution | <input type="checkbox"/> re-issue of uim claim | <input type="checkbox"/> Other |
| <input type="checkbox"/> subpoena | <input type="checkbox"/> writ | |
| <input type="checkbox"/> stipulation | <input type="checkbox"/> writ of mandamus | |

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Natalie E. Tennant
Secretary of State

SUMMONS

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

GEORGE NICHOLS,

PLAINTIFF,

v.

CIVIL ACTION NO. 11-C-329

RAILSERVE, INC. and

DUPONT FILAMENTS-AMERICAS, LLC,

DEFENDANTS.

To the above-named Defendant:

Railserve, Inc.

Dennis Nelson

1691 Phoenix Blvd. Ste. 250

Atlanta, GA 30349

IN THE NAME OF THE STATE OF WEST VIRGINIA: You are hereby summoned and required to serve upon Greg A. Hewitt, plaintiff's attorney, whose address is 204 North Court Street, Fayetteville, West Virginia 25840, an answer, including any related counterclaim or defense you may have, to the complaint filed against you in the above-styled civil action, a true copy of which is hereby delivered to you. You are required to serve your written answer with the Clerk of this Court, and with a copy of said answer served upon plaintiff's attorney within THIRTY (30) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: Feb 25 2011

Cathy D. Hakeson
Clerk of Court
Maryanna Hammick
Deputy Clerk